



# The modernization of the European Union-Mexico Association Agreement: between change and continuity

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## Abstract

Within the framework of consolidating an open strategic autonomy that allows it to face the current challenges, the European Union (EU) has undertaken the challenge of strengthening global cooperation through its extensive network of association and free trade agreements. Mexico has maintained a close relationship with the EU since the Global Agreement, in force since 2000. In 2016 it was announced its modernization in order to promote a state-of-the-art agreement that responds to international changes and incorporates crucial elements for sustainable development, such as social and environmental clauses. In this context, the main objective of this document is to identify and analyse to what extent the modernization and ratification of the Mexico-European Union Global Agreement (and its full use) can contribute to a better international insertion in economic matters of each party, to its role in international relations, and to the transitions that they must undertake in aspects such as sustainable development, digitization and social cohesion. Through the pillars of the Global Agreement, in terms of political dialogue, trade and cooperation, it consists, in particular, of highlighting the potential of the agreement in order to reaffirm its strategic autonomy and contribute to the strengthening of multilateralism.

## Keywords

Global Agreement; social cohesion; sustainable development, digitization; multilateralism.

## Resumen

En el marco de la consolidación de una autonomía estratégica abierta que le permita enfrentar los desafíos actuales, la Unión Europea (UE) ha emprendido el reto de reforzar la cooperación global a través de su amplia red de acuerdos de asociación y libre comercio. México ha sostenido una relación estrecha con la UE a partir del Acuerdo Global, en vigencia desde el año 2000; en 2016 se anunció su modernización con el fin de impulsar un acuerdo de última generación que responda a los cambios internacionales e incorpore elementos cruciales para el desarrollo sostenible, como cláusulas sociales y medioambientales. En este contexto, el objetivo principal de este documento es identificar y analizar en qué medida la modernización y ratificación del Acuerdo Global México-Unión Europea —y su pleno aprovechamiento— pueden contribuir a una mejor inserción internacional en materia económica de cada parte, a su papel en las relaciones internacionales, y a las transiciones que deben emprender en aspectos como el desarrollo sostenible, la digitalización y la cohesión social. A través de los pilares del Acuerdo Global, en términos de diálogo político, comercio y cooperación, se trata, en concreto, de evidenciar el potencial del acuerdo en aras de reafirmar su autonomía estratégica y coadyuvar al fortalecimiento del multilateralismo.

## Palabras clave

Acuerdo Global; cohesión social; desarrollo sostenible; digitalización; multilateralismo.

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## 1. Introduction

In the midst of the geopolitical dispute between the US and China, the EU needs to reaffirm its role as a player in the international arena and project its essence as a strong supporter of multilateralism. It must do so on the basis of the conviction that, in order to face global crises, challenges and threats, the international community needs an efficient multilateral system, based on universal rules and values, as expressed in the rules that gave rise to and make the EU operational.

The need to reaffirm its geopolitical power has been confirmed by the leadership of Ursula von der Leyen in the European Commission. The President of the Commission, since the beginning of her mandate, has advocated raising the EU's external political profile, through a geopolitical Commission that leads the ecological and digital transition. To this end, even in the context of the pandemic, the EU has launched major initiatives such as the Green Deal and the Next Generation EU plan for its economic recovery.

In the international context, the EU is aware that the economic and social crisis resulting from the COVID-19 pandemic will have profound negative effects on efforts to achieve sustainable development. The Union has reinforced its intentions to lead an ecological, digital, inclusive, just and sustainable global recovery, geared towards meeting the Sustainable Development Goals (SDGs) and the Paris Agreement; economic recovery is of no use if global challenges such as climate change are not addressed. Hence, through the promotion of its strategic autonomy, the EU aims to “shape the world around it through leadership and collaboration, reflecting its values and strategic interests” (European Commission, 2021: 4-5).

That being the case, the EU can make use of the tools it has shaped throughout its history, both within the Union and externally. It has a set of instruments with which it has stood out as a pioneer: its development policy -with which it has positioned itself as the main donor of international cooperation and humanitarian aid in the world- and its trade policy, thanks to which it maintains commercial relations mainly with Latin America and the group formed by Asia, the Caribbean and the Pacific (ACP), which does not exclude that it negotiates with commercial partners throughout the world (European Commission, 2021 and 2021b).

Through its trade policy, the EU has been able to adapt, face current challenges, in addition to “achieving its ambitions and safeguarding its position in the world” (European Commission, 2021: 26). Looking ahead, trade policy should be reoriented towards “the objectives of supporting a fundamental ecological and digital transformation of the EU economy, practising a more sustainable and equitable globalisation based on modernised rules and adopting stronger enforcement measures” (European Commission, 2021: 26).

On the other hand, the EU “is a global regulatory power, whose rules, with undoubted extraterritorial effects, contribute to the governance of global society” (Mangas-Martín, 2018: 86). In this way, the EU's foreign policy can act as a real channel for the export of standards, through trade agreements in-

corporating human rights clauses or social clauses (for example, labour and environmental clauses) which the parties are obliged to comply with.

In this context, this document describes and analyses the modernization of the Agreement on Political Coordination, Economic Partnership and Cooperation between the European Union and Mexico, known as the Global Agreement (hereinafter, AG), in its three pillars: political dialogue, trade and cooperation, contemplating its concrete results as enhancers of a new international order. The questions that guide this research are the following: what assessment can be made of the three pillars that make up the AG? Can the association agreements contribute to the strategic autonomy of both regions and the strengthening of multilateralism in the face of the globalisation crisis? How can the Association Agreements (AA) and, in particular, the modernised agreement between Mexico and the EU contribute to generating new models of post-pandemic development?

The main objective of the document is to identify and examine to what extent the modernisation and ratification of the AG, and its full use, can contribute to a better international integration of each party in economic matters, to its role in international relations, and to the transitions to be undertaken by the EU and Latin America in areas such as sustainable development, digitisation and social cohesion. More specifically, it is a question of presenting the results of the GA (and its components of political dialogue, trade and cooperation) in order to demonstrate its potential for the strategic autonomy of both parties and contribute to the strengthening of multilateralism.

And all this, taking into account that, just as the EU has changed direction and geopolitical strategy, Mexico has also faced substantial changes in its direction. Thus, although a previous government began negotiations for the modernization of the AG, the current government has confirmed different orientations regarding key issues, although sometimes there have been gaps between their agendas.

This document has been structured in three sections. The first examines the three pillars of the agreement: political dialogue, trade and cooperation; while the second section describes the process of modernisation of Mexico's GA with the EU. In the third section it presents, as a key aspect in this new international structure, the actors involved in free trade agreements through the mechanisms of political dialogue, which can become a key and effective resource for their enforceability. The approach is structured from the perspective of international relations, and from the analytical perspective of the concept of *strategic autonomy*. This document is a starting point to understand the relevance of the EU as a strategic partner of Mexico and the modernization of the AG.

## **2. 20 Years of the Global Agreement: A Brief Review**

The relationship between Mexico and the EU has gone through different stages, from indifference and disinterest to the signing of several agreements, but with a clear and constant thread that has been gradually intensifying. Serrano points out that there has been a shift from 'ignorance between Mexico and EU members, characterized by the absence of institutional relations and by the scarce European interest towards Mexico, to the establishment of political dialogue, to consultation in all fields, to economic cooperation, and to development, and to the establishment of an associative relationship that has placed Mexico in an increasingly priority position in the European Union's external relations' (Serrano Caballero, 2008: 78-79).

The Economic Partnership, Political Coordination and Cooperation Agreement between Mexico and the European Union marked a new phase in relations between the EU and Mexico. On 8 December

1997, three agreements were signed: (a) the Economic Partnership, Political Coordination and Cooperation Agreement; (b) the Interim Agreement on Foreign Trade and Trade-related Matters between Mexico and the EU; and (c) the Joint Declaration on General Exceptions. These instruments constituted the legal framework to negotiate, not only a free trade agreement, but a broad pact of cooperation in multiple fields, mechanisms of political agreement and even the promotion and consolidation of democracy (Serrano-Caballero, 2008: 94-95).

The agreement had three pillars: economic, political dialogue and development cooperation. It also included a democratic clause, which Mexico took several years to accept (Serrano-Caballero, 2008: 98). The entry into force of this agreement, known as the Global Agreement between Mexico and the EU, on 1 October 2000 (OJEC L 278, 28.10.2000, p. 45-79), provided a legal framework for the parties with the aim of strengthening the bilateral relationship, “especially through intensified political dialogue, progressive and reciprocal liberalisation of trade, liberalisation of current payments, capital movements and invisible transactions, promotion of investments and wider cooperation”. In addition to establishing the institutional basis for a dialogue in the field of policy and cooperation between the EU and Mexico, the AoA had an Economic Partnership component containing guidelines for free trade in goods and services between the parties.

The result was set out in Joint Council Decisions 2/2000 (Official Journal of the European Communities, L 157/6, 30.6.2000) and 2/2001 (Official Journal of the European Communities, L 157/10, 30.6.2000). These are known as the Free Trade Agreement between Mexico and the European Union (FTA EU-MX), whose trade negotiations began on November 8, 1998 and ended on November 25, 1999. In 2000, the Senate of the Republic ratified the agreement, which entered into force. This agreement was the first of its kind negotiated by the EU with a Latin American country, within the fourth generation agreements. One of the characteristics of these agreements is that it is structured around three pillars: the economic-commercial pillar, the cooperation pillar and the political dialogue pillar.

The EU had signed similar agreements with Mercosur and Chile, but they did not include some aspects incorporated in the GA with Mexico (Serrano-Caballero, 2008: 95). As mentioned above, the GA was structured in three parts, setting out the objectives and rules for political agreement (political dialogue), economic partnership and cooperative relations, as well as its institutional framework and final provisions. A brief assessment of each of these dimensions will be made further on.

In 2008, the Strategic Partnership between Mexico and the EU was established with the aim of strengthening the bilateral relations that the GA had formalized and shaping common positions at the multilateral level. In this way, the EU and Mexico opened the institutional opportunity to hold High Level Dialogues between the EU and Mexico, in the field of global security, environment, cooperation and human rights, among others.

Mexico shares the Union’s strategic partner character with other countries, such as the US, Japan, China, Canada, India, Russia, South Africa, Brazil and South Korea. Formally, Mexico became a strategic partner of the Union in 2008 (European Commission, 2008), which was reflected in the 2009 European Union Strategic Partnership with Mexico and the 2010 Joint Action Plan (Council of the European Union, 2010). These documents also contained specific actions, common goals and policy dialogue initiatives to identify areas of collaboration on bilateral, multilateral and regional issues. Thus, the pre-existing political dialogue was expanded and cooperation between the two sides was strengthened, coordinating common positions in international forums. This made Mexico the country with which the EU has the most institutionalized bilateral relationship.

For Mexico, the GA signified the strengthening of its foreign opening policy, after its incorporation into the North American Free Trade Agreement (FTA EU-MX) with Canada and the United States in December 1992, in addition to strengthening its commitment to democratic values, respect for human rights and good governance.

For Mexico, the EU is a key partner in multilateralism. Both actors share a series of principles for their external action: respect for the norms of international law, the commitment to multilateralism, the defence and promotion of human rights and commitment to global issues such as joint efforts in favour of disarmament and arms control (Chanona and Dominguez, 2020: 165), sustainable development, or climate change, among others. From the Mexican perspective, the relationship with the EU is essential to promote the common interest within international organizations. Such is the case of the development commitments and the SDGs of the UN 2030 Agenda (2015).

It should be noted that, in trade, not all investments are limited to the framework of the Association Agreement. Fifteen EU Member States have bilateral relations with Mexico through the Agreements for the Promotion and Reciprocal Protection of Investments (BIPPA), as well as Bilateral Investment Treaties (BITs). Like the association agreement, these agreements promote the investment process and offer legal conditions such as investor-state dispute settlement mechanisms.

### **2.1. Trade and investment**

In economic matters, Mexico and the EU committed themselves with the GA to coordinate the economic sectors, distinguishing the commercial from the financial. Both sides agreed to start negotiations for the signing of a free trade agreement that would remove tariff and non-tariff barriers to bilateral trade in goods and services, in accordance with World Trade Organization (WTO) regulations. To that end, they signed the Interim Agreement on Foreign Trade and Trade-related Matters, which (after its signature on 8 December 1997) entered into force on 1 July 1998. This agreement laid the groundwork for starting negotiations on comprehensive trade liberalization with rights and obligations.

Furthermore, the Joint Declaration on General Exceptions (also signed on 8 December 1997) laid the foundations for negotiations on trade in services, capital movements and payments, and intellectual property. In December 1999, two Joint Council Decisions were concluded which, as a result of the Interim Agreement and the Global Agreement, contained specific rules on trade liberalization, capital movements and intellectual property. These two decisions, as has been progressed, are known as the Free Trade Agreement between the European Union and Mexico (FTA EU-MX) (Serrano-Caballero, 2008: 100-103).

According to the outcome of these negotiations, the FTA EU-MEX was composed of 11 chapters: market access; rules of origin; technical standards; sanitary and phytosanitary standards; safeguards; investment and related payments; trade in services; public sector procurement; competition; intellectual property and dispute settlement. The FTA EU-MX also envisaged an interim phase of gradual liberalization of trade in goods, beginning with the entry into force of the treaty on 1 July 2000.

The EU accounts for 31% of total investment in the country, with a total of 185 billion dollars invested since 2000 (Government of Mexico, 2021). In 2020, the EU was Mexico's third largest trading partner, after the United States (\$506.9 billion) and China (\$81.5 billion), accounting for 7.8% of the country's total trade. In turn, Mexico is the EU's eleventh trading partner, accounting for 1.5% of its foreign trade (SRE, 2021c).

Mexico is the EU's second largest trading partner in Latin America and the Caribbean, behind Brazil. In 2018, total trade in goods between the EU and Mexico reached 65,386 million euros, an increase of 5.8% since 2017, and EU exports grew faster than Mexican exports. Mexico accounted for 1.7% of the European bloc's total trade, placing it as the EU's eleventh largest trading partner (European Commission, 2019). Unlike exports from other Latin American and Caribbean economies, Mexican exports are dominated by industrial products, machinery and transport equipment.

Although it is true that trade between the two regions had registered sustained growth, with the COVID-19 pandemic crisis there was a decrease of 17%, going from 75 billion dollars in 2019 to just over 62 billion in 2020. Likewise, exports decreased from 24.2 billion dollars to 18.7 billion, while imports increased from 51.2 billion dollars to 41.8 billion (SRE, 2021c).

Regarding investment, EU members represent 31.1% of the investments received by Mexico in the period 1999-2020, with 189.3 billion dollars, making the EU the second largest investor in the country. In 2020, in the context of the pandemic, overall investment by EU Member States decreased by 38% compared to the previous year, from US \$13.7 billion to US \$8.4 billion. The main European investors are Spain (\$73.4 billion), Germany (\$26.9 billion), the Netherlands (\$21.3 billion), Belgium (\$21 billion) and the United Kingdom (\$15 billion) (SRE, 2021).

European investment has been concentrated in the automotive, aerospace, beverage and pharmaceutical sectors (SRE, 2021c). In Mexico, there are 19,080 companies with capital from the EU distributed mainly in Mexico City (23.6%), the State of Mexico (10.8%), Nuevo Leon (8.6%), Puebla (5.6%) and Jalisco (5.4%) (SRE, 2021b).

## ***2.2. Political dialogue***

The overall balance of the political dialogue is positive. Political dialogue mechanisms are institutionalized in the Global Agreement and the Strategic Partnership. The institutional framework consists of a Joint Council at ministerial level; a Joint Committee at senior officials' level; and the possibility of establishing ad hoc committees established by the Joint Committee to assist it in carrying out its tasks, in addition to the dispute settlement mechanism.

The political dialogue addresses issues of common interest and is aimed at promoting new forms of cooperation in favour of common objectives. The establishment of objectives was accompanied by a mechanism that envisaged the manner in which the dialogue would be conducted: through contacts, exchanges of information and consultations between the different bodies in Mexico and the EU. On the other hand, the High-level Political Dialogue takes place at the presidential and ministerial levels (senior officials). Diplomatic channels and meetings between foreign ministers, the modalities of which are defined by the parties, are taken full advantage of. In the case of parliamentary dialogue, the Joint Declaration on Parliamentary Dialogue (annexed to the AG, but without any real binding value) provided that it would be carried out through contact between the European Parliament and the Congress of the Union of Mexico.

In relation to the dialogue with civil society, there is no clause in the GA that explicitly incorporates this actor. Civil society is only mentioned when it refers to cooperation in human rights and democracy (OJEC, 1997, art. 39). However, a series of efforts on the part of civil society has led to its incorporation into activities that make up the political dialogue.

The Joint Parliamentary Committee (JPC) has been the most consistent bilateral dialogue mechanism, meeting continuously twice a year since 2005. The JPC has served as a space to deepen parliamentary

dialogue with the aim of improving relations between Mexico and the EU and its member States, agreeing common positions in the defence of human rights and the rule of law, as well as supporting the implementation of joint projects in economic, scientific and educational matters (Del Río and Saavedra Cinta, 2018: 45). As a result of their work, meeting after meeting, joint statements have been issued in which recommendations are addressed to government agencies and bodies of the bilateral relationship (<https://centrogilbertobosques.senado.gob.mx/cpm>). In addition to generating a forum for socialization among parliamentarians and being a pillar for the development of an institutional memory, the meetings of the JPC have had positive effects. This is reflected, for example, in a more articulated vision in the joint declarations, in the strengthening of relations between Mexico and the EU, and in the identification of the best mechanisms for the review and evaluation of the GA (Domínguez and Velasco, 2015: 43).

Through this mechanism, European parliamentarians have been able to point out the human rights violations in Mexico, an essential issue for advancing the modernised agreement. One of these cases was the one that occurred in 2014 with the students of Ayotzinapa. In a resolution of the European Parliament, MEPs spoke out strongly against the disappearance of the 43 students and invoked the principles that gave rise to the Global Agreement and the Strategic Partnership, concerning respect for human rights and democracy. They condemned these acts and called for action to be taken in accordance with the law (European Parliament, 2014). In addition, they called on the Mexican authorities to act “quickly, transparently and impartially” to arrest and prosecute those responsible for the “unacceptable forced disappearances” of the 43 students in Guerrero, Mexico (Rueda, 2015; Reuters, 2014).

Sectoral dialogues are also important; they are held within the framework of the EU-Mexico Strategic Partnership and are a mechanism for exchange on international and regional policy issues. These dialogues are governed under the SA and the Joint Executive Plan of the Strategic Partnership. “The main function of the sectoral dialogues is to constitute themselves as forums for the exchange of views and best practices, which can be translated into cooperation actions on specific issues” (Del Río and Saavedra Cinta, 2018: 39).

The first political dialogue was held in 2014 and has since been conducted on an ongoing basis, year after year. In addition to the political dialogue, other high-level dialogues have been held within this mechanism on specific issues such as multilateral affairs, human rights, environment, climate change, and security and justice (SRE, 2021).

### **2.3. Cooperation**

Development cooperation has been one of the most active axes on which the relationship between Mexico and the EU has been structured. It represents the third pillar of the GA and is the most dynamic, and also the one that has undergone the most changes, since it currently takes place in an environment very different from that which existed 20 years ago (when the GA came into force) and even that of a decade ago.

At the time, the GA appeared as a visionary and modern agreement, which incorporated new areas of cooperation into the agenda: human rights, consolidation of democracy, refugees, environment, education, development and social cohesion. Taken together, these actions have been reflected in increased academic exchange, scientific cooperation and institutional strengthening. The cooperation enabled both sides to strengthen their ties, and to establish knowledge and experience flows to develop joint projects in the face of development challenges. Social and economic cohesion policies are priority objectives of the EU to reinforce the structural factors that determine the competitiveness and growth potential of the less favoured regions.

Mexico focused its participation on cooperation on specific issues (human rights and democracy, the role of non-state actors, the environment, nuclear safety, health, and migration and asylum) all managed through calls for proposals, in regional programs for Latin America, and in other European programs such as Horizon 2020, and the Framework Program in Science and Technology. However, the disappearance of many bilateral development cooperation programmes has posed difficulties in restoring relations with middle-income and upper-middle-income countries that have been “graduated” by the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD). This is why more horizontal relations have been assumed. At the bi-regional level, some of the programmes in which Mexico participates are: SOCIEUX+, EUROsociAL, EUROCLIMA, EL PACCTO, LAIF and AL INVEST 5.0.

Since 2014, bilateral cooperation between Mexico and the EU has been carried out according to a scheme based on the Partnership Instrument, through which both parties have expressed their political will to maintain high-level cooperation links, using instruments such as political dialogue and sectoral dialogues on issues of social cohesion, science and technology, human rights, democracy and the environment.

### **3. Modernisation of the Comprehensive Agreement between the European Union and Mexico**

The EU and Mexico decided to explore the possibilities of updating the GA and, in particular, the trade pillar, in the context of the First Summit of the Community of Latin American and Caribbean States, and the European Union (CELAC-EU) in Santiago de Chile (2013). The review clauses, established in the AG, did not allow their updating. In the same year, at the 12th Meeting of the Mexico-EU Joint Committee, a Working Group was created consisting of three subgroups focused on each of the main areas of the relationship. Its aim was to review the provisions of the legal framework that could be extended and modernised, explaining how to make progress in updating the AG. The groups drafted the Mexico-EU Joint Vision Report, which identified the need for a regulatory update to prevent non-tariff measures (in addition to the emergence of new regulatory and policy frameworks in Mexico and the EU, in areas such as agriculture, telecommunications, intellectual property rights and competition) from holding back the advance of trade and investment between the two sides. The report was adopted at the Seventh Mexico-EU Summit in Brussels in June 2015.

In September of the same year, the European Economic and Social Committee adopted an Opinion, the Revision of the Association Agreement between the EU and Mexico, on the trade pillar of the AG, in which it identified the following issues: the importance of civil society participation, the obligation to sign and ratify International Labour Organisation (ILO) conventions, and the relevance of including chapters on intellectual property rights (in particular the inclusion of the geographical indication) and on investment protection to replace existing bilateral investment treaties (Grieger, 2020: 9).

In December 2015, the European Commission presented a first draft of the Council Decision or Negotiating Mandate. It also presented an impact study which pointed out that the modernisation of the GA would have positive effects on both sides, in terms of increasing GDP, exports, workers' wages, gaining competitiveness and improving the relative position of both Mexico and the EU. The modernisation of the GA was significant because it sought to reflect the political will of Mexico and the EU to provide an updated regulatory framework in areas of common interest that: a) were not covered by the Global Agreement, b) were covered by the Global Agreement to a limited extent, or c) needed to adapt to internal transformations in Mexico, the EU and internationally (Del Río and Saavedra, 2018).

The modernisation of the GA was inserted in the trade agenda of the European Commission Trade for All, adopted in October 2015, which was formulated in the framework of trade negotiations with the US. and Canada. This agenda sought to deepen multilateral trade liberalisation and the introduction of an investment dispute settlement court, as inclusive trade consistent with respect for human rights represents one of the core values of the Union in its trade strategy (European Commission, 2015).

This reorientation has been further expanded to include concern for the environment. In this way, the EU trade strategy advocates the use of trade agreements and preferential trade programmes to promote sustainable development, human rights, fair and ethical trade, the fight against corruption and improving supply chain accountability worldwide. These questions then responded to the fact (widely recognized today) that business activities “affect the public interest and may affect a number of human rights” (Wouters and Hachez, 2009: 301-316).

In this regard, in 2017, the European Commission published the Communication “A balanced and progressive trade policy to drive globalisation” (COM (2017) 492 final). It was based on the idea that “world trade is a key factor for a competitive and prosperous European Union”, but it clarified that “global trade needs to be shaped proactively and managed so that it is fair, reflects our values and remains firmly rooted in a rules-based system”. The EU’s objective is to develop a transparent and accountable trade policy that benefits all citizens and offers modern solutions to the realities of today’s technologically changing economy.

The main objective of this policy is to form “new trade associations to establish progressive global trade rules, and to use trade policy to promote universal values with regard to environmental, social and labour protection and fundamental rights, as well as to preserve the right to legislate in the public interest” (WT/TPR/S/395/10, 2019: 10).

Some of the factors that drove the negotiations between Mexico and the EU in 2016 (aimed at modernizing the trade pillar of the AG) were the profound changes that had occurred in global trade and investment policy since 2000. In addition, both the EU and Mexico had adopted a variety of new trade and investment agreements with third countries during that period, which contained technical and legal innovations. Likewise, both parties had the need to strengthen the Strategic Partnership and standardize their position on issues such as climate change, the 2030 Agenda for Sustainable Development, security, peacekeeping operations, the fight against transnational organized crime and migration (EU-Mexico Delegation, 2021).

During the government of President Enrique Peña Nieto (2012-2018), Mexico carried out a set of structural reforms (Pact for Mexico) that opened key sectors that were previously closed to foreign investment (such as energy and telecommunications) which created business opportunities for EU companies. In May 2016, Mexico’s Secretary of Economy, Ildefonso Guajardo Villarreal, and EU Trade Commissioner Cecilia Malmström reported on the formal start of negotiations to modernise the AG. In total, ten rounds of negotiations were held.

Negotiations on political consultation/political dialogue and cooperation ended at the end of 2017. On 21 April 2018, the conclusion of the negotiations on the modernisation of the GA was announced: both parties stated that, after two years of negotiations, an agreement in principle had been reached, also on the modernised trade pillar of the AG. Despite this, there were still some technical aspects to be closed in this commercial part, such as those relating to geographical designations and sub-state public procurement. Finally, on 28 April 2020, the EU and Mexico concluded their talks by agreeing on the last element: the Union’s access to Mexico’s sub-federal public procurement markets (Grieger, 2020:

10). Thus, the new agreement between the EU and Mexico contemplated “political, economic and cooperation aspects with the aim of strengthening political dialogue, increasing trade and investment flows and raising technical and scientific cooperation for the benefit of both parties” (SE, 2018).

The viability of the new agreement and its entry into force depends on a complex ratification process. After legal debugging and translations, the final text will be submitted for approval to the European Council and its counterpart institution in Mexico, and will be submitted to the European Parliament for approval. The new agreement has a mixed character, which means that, in trade matters, the EU has exclusive competence in some areas, and its Member States in others, which means that the different parts of the agreement can enter into force at different times.

It is therefore possible that the new agreement will fragment and enter into force provisionally: first, the commercial part over which the EU has exclusive competence could do so, when it is ratified by the Council of the Union and the European Parliament. The other two pillars, political dialogue and cooperation (which include political issues such as “respect for and promotion of human rights, labour and environmental rights, fundamental freedoms and the rule of law, among others”) will enter into force when ratified by the EU’s national parliaments. This proposal by the European Commission is in line with the decision of the Court of Justice of the European Communities on the Singapore Agreement of 2017.

Currently (as of March 2022), the entry into force of the new agreement between the EU and Mexico has been slowed down by technical problems, but (two years after the signing of the agreement in principle on trade matters) everything seems to indicate that it will enter into force in this year 2022.

### ***3.1. Agreement in principle on the modernisation of the Global Agreement***

The modernised agreement consists of 31 chapters, an anti-corruption protocol and a series of annexes integrated into six parts. The new agreement aims to “favour the exchange of goods and services between Mexico and the EU, as well as investments and access to companies in the markets of both regions” (Grieger, 2020: 5). The agreement will eliminate many of the customs duties on trade in goods and services between the EU and Mexico. Moreover, it has left virtually all merchandise trade between the EU and Mexico duty-free. In the agricultural sector, more than 85 per cent of tariff lines will be fully released; 10 per cent will be marketed with a maximum of seven years’ relief (tuna, rice, flour, wheat, lactose, chocolate, Maltese extracts, pasta, biscuits, etc.), and 4 per cent will receive special treatment (partial reductions, long periods, exclusions). Sensitive products for Mexico (dairy products, meat, apples or peaches, among others) will continue to be subject to specific restrictions (including quotas and tariff quotas).

Virtually all merchandise trade between the EU and Mexico, including in the agricultural sector, will be exempt from customs duties. The agreement has included a chapter on animal welfare and antimicrobial resistance, which sets an innovative precedent for EU and international trade policy, as well as animal welfare. It should be reminded that Mexico is the fourth producer of eggs (most of them chicken) and the seventh in poultry meat, so that in this issue it is a key country that could promote cooperation in the application of the rules of the World Organisation for Animal Health (Grieger, 2020: 11).

The modernised agreement shall also protect geographical indications, in particular that of the foodstuffs and beverages characteristic of each party. In the case of Mexico, 20 geographical indications of food products are protected (mango ataulfo, Veracruz coffee, Papantla vanilla, handicrafts such as Talavera...). In the case of the EU, 340 indications are protected (champagne, Parma ham, Modena bal-

samic vinegar, Manchego cheese...) in addition to the protection that already exists for EU alcoholic beverages under the 1997 agreement on spirits, as amended in 2020 (Grieger, 2020: 11).

As a result, the EU and Mexico will reciprocally protect almost 600 geographical indications. It should be noted that, in 2018, a special registration procedure was established for the protection of geographical indications through amendments to its Industrial Property Law (Grieger, 2020: 11). In addition, the agreement provides for the protection and enforcement of intellectual property rights that go beyond what is established in agreements on trade-related aspects of intellectual property rights (TRIPS), such as copyright, related rights, industrial designs and trade secrets. These aspects benefit from rules in line with the most recent EU regulations (Regulation (EU) 2019/1753 of the EP and of the Council of 23 October 2019), following its accession to the Geneva Act of the Lisbon Agreement on designations of origin and geographical indications (Grieger, 2020: 10).

Customs procedures are also simplified, which will also benefit the European industry, including the pharmaceutical, machinery and transport equipment sectors. The agreement also pays attention to the revision of the rules of origin to include transparency and cooperation on sanitary and phytosanitary measures with common commercial partners (Grieger, 2020: 11).

Trade in services, such as financial markets, e-commerce, telecommunications, postal and courier services and transport, has been included in the services chapter. In the public procurement sector, both parties have extended their coverage at the state level. In addition, a chapter on digital commerce has been introduced, which proposes the removal of unnecessary barriers to online commerce (such as the charging of customs duties when downloading an application) and the establishment of clear rules to protect online consumers. The new agreement includes small and medium-sized enterprises (SMEs); mutual recognition of professional qualifications; and the promotion of transparency, anti-corruption and sustainable development (CEIGB, 2020).

With regard to the chapter on trade and sustainable development, a cooperation framework is established for the sustainable management of the supply chain and the sustainable use of biological diversity; in addition, a commitment is made to combat climate change (CEIGB, 2020: 8). Neither party may lower its environmental or labour standards with the intention of attracting investment. In addition, they retain the right to regulate to achieve public policy objectives, and effectively implement the ILO core conventions and multilateral environmental agreements (Grieger, 2020: 11).

As in the “trade and sustainable development” chapters of other EU preferential trade agreements, disputes between the parties will be governed by non-binding dispute settlement agreements that apply horizontally to the whole agreement and make it impossible to impose special sanctions. This is one of the most innovative chapters of the new agreement, since it sets out the objectives for building a more open and fair trade relationship, and in which the values of sustainable development are linked to the engine of trade.

Likewise, the new agreement includes the precautionary principle and sets out the commitments of the parties in the implementation of the Paris Agreement on Climate Change (2015). It also modernises the chapters of the rules of origin with regard to sanitary and phytosanitary measures, and with regard to industrial property rights.

In addition, it is the first EU agreement to contain provisions on the fight against corruption, in the areas of trade and investment, and in the public and private sectors (ICE Economic Bulletin, 2021: 158), through the promotion of integrity in these sectors, the improvement of internal controls, external

audit and financial reporting. It also strengthens the fight against corruption by introducing compliance with the provisions of various international instruments, including measures to combat bribery and money laundering (in particular, the United Nations Convention against Corruption, which entered into force in 2005).

In the chapter on energy and raw materials, the agreement lays down rules on the adoption of transparent and non-discriminatory authorisation procedures that guarantee access for EU companies to the Mexican hydrocarbon and clean energy markets.

The agreement also includes a chapter on liberalisation and investment protection. It thus improves the conditions for investment and includes the Union's new Investment Court System, which should ensure transparency and the right of governments to regulate in the public interest. It also ensures that Mexico and the EU collaborate in the creation of a permanent Multilateral Investment Court (Grieger, 2020: 12). One of the main consequences of the inclusion of this chapter will be that privatizations and pro-business reforms in Mexico's oil and gas sector will be shielded (Olivet and Pérez-Rocha, 2016).

The new agreement will be the EU's fourth signed trade agreement that includes a permanent dispute settlement court between the parties and investors, following those signed with Canada (2016), Singapore (2018) and Vietnam (2019). This mechanism is made up of two instances and permanent arbitrators. It will ensure the protection of foreign investment and strengthen its certainty. It should be noted that this mechanism will replace bilateral agreements on the promotion and reciprocal protection of investments (APPRI). Mexico has 16 bilateral investment agreements with EU countries, which will be replaced by a single one, raising the level of investments (Grieger, 2020: 12).

Another innovative chapter is that which refers to public procurement, a critical area for investment. Both parties have agreed to ensure reciprocal access to public procurement. The agreement incorporates new generation disciplines, in terms of transparency, equivalent to those established in the Public Procurement Agreement within the framework of the WTO, to which Mexico is not a party (Grieger, 2020: 11). Mexico agreed to open, for the first time, access to purchase beyond the federal level, with 14 states willing to open their procurement markets to EU companies (Drazen and Blenkinsop, 2020; Dominguez, 2020: 6).

In addition, the modernised agreement between the EU and Mexico incorporates a paragraph aimed at reducing poverty and strengthening social cohesion, thus contributing to the implementation of the 2030 Agenda, in which this is an indispensable element. In this sense, social cohesion is a strategic axis of the cooperation relations between Mexico and the EU (EU Delegation in Mexico, 2021: 2).

Finally, the renewed EU-Mexico agreement is bound to align with the Sustainable Development Goals of the UN 2030 Agenda (2015), the Addis Ababa Action Agenda on Financing for Development (2015), the Paris Agreement on Climate Change (2015), the new Consensus on Development (2017) and the EU Global Foreign and Security Policy Strategy (2016).

### ***3.2. Potential impact of the trade and investment agreement***

The effects of the modernised agreement can be indirectly estimated. Progress and achievements will depend on the combination of the new legal framework, the political will of governments to maximize their potential and the actions of economic agents to take advantage of trade and investment opportunities (Dominguez, 2020: 3). The agreement's estimates, based on current economic trends and the possible incentives that legal innovations bring to the relationship, are positive. One of the most important

positive trends is the steady growth in the volume of trade flows between the EU and Mexico. Unlike Brazil (the largest Latin American economy, and the EU's main trading partner in Latin America for decades), trade between the EU and Mexico has increased to the point that Mexico became the EU's eleventh trading partner in 2018, displacing Brazil, which fell to thirteenth place (SIA, 2019; Dominguez, 2020: 4).

Regarding the economic pillar, LSE Consulting carried out in 2017 a sustainability impact assessment of the agreement entitled "Sustainability Impact Assessment in Support of the Negotiations for the Modernization of the Trade Pillar of the Global Agreement with Mexico" (SIA). This assessment, whose initial version is of 2017 and the final version of 2019, analysed the economic, social and environmental potential of the modernisation of the agreement, and the main conclusion reached was that there would be a benefit for both parties: total exports of goods and services from the EU to Mexico could increase by 17%, in the conservative scenario, and by 75% in the more ambitious scenario. Imports of goods and services from the EU could increase by 9.3% in the most conservative scenario and by 32.5% in the most ambitious scenario. Similarly, in the most ambitious scenario, EU GDP would increase by 1.8 billion euros, while Mexico's GDP would increase by 6.4 billion euros (SIA, 2019: 4; Dominguez, 2020).

This assessment also mentioned that the modernisation of the GA would allow 99% of merchandise trade between the EU and Mexico to be duty-free. According to EU estimates, savings for EU exporters were estimated at €100 million per year, a result of tariff changes, essentially due to the impact of the inclusion of food and beverages (SIA, 2019: 5). In addition, the SIA predicted that, for every €1 billion of exports to Mexico, 14,000 jobs could be created in Europe. In the conservative scenario, estimates of cross-sectoral changes in employment are much lower, for both the EU and Mexico: approximately 5,000 unskilled jobs and 2,800 skilled jobs in the EU, and around 21,000 unskilled jobs and 4,500 skilled jobs in Mexico (SIA, 2019: 5).

The SIA suggested liberalising trade to improve energy management and boost renewable energy. The liberalisation in these areas would promote their development and strengthen the exchange of green technology between the EU and Mexico, favouring a transition towards green energy. It also noted the importance of the chapter on public procurement and the provisions to ensure reciprocal access of both EU and Mexican companies to public procurement markets. Mexico, as indicated, would thus open its markets for the first time, not only at the federal level, but also at the sub-federal level, which would create new business opportunities.

With regard to the chapter on sustainable development (which calls for the implementation of the Paris Agreement and trade promotion that contributes to the decarbonisation of economies) a study by PowerShift and the Transnational Institute (TNI) points out that there is a lack of a sanction mechanism for cases in which the international environmental framework is violated or human rights are violated. Thus, although the agreement adds a chapter on social and environmental provisions, the possibility for the people concerned to hold investors accountable for environmental, human rights or labour standards violations is not consolidated. In this sense, the SIA already recommended strengthening trade and sustainable development mechanisms, by virtue of their positive effects on the implementation of the international environmental framework, on compliance with labour standards and on the protection of human rights in Mexico.

Moreover, the PowerShift and Transnational Institute study mentions that the GA is the first agreement that includes a chapter for the protection of investments that the EU makes, as a bloc, in a Latin American country. This chapter makes it possible to safeguard private interests through the judicial investment system (ICS). As an example of the type of situations that can be resolved with this chapter,

we can refer to the following: currently Mexico is the second country in the world that has received the most claims before investment arbitration courts for measures taken in the context of the COVID-19 crisis, in particular, for imposing restrictions on the production of renewable energy after the fall in electricity demand caused by the pandemic.

The government issued two resolutions suspending the entry into operation of renewable energy plants and which, in the midst of the pandemic, limited generation by wind and photovoltaic power plants. These measures affected European transnational energy companies: three Spanish (Iberdrola, Naturgy and Acciona), one Italian (Enel) and one French (Engie). They also affected Canadian (ATCO) and American companies (Finley Resources Inc., MWS Management, Prize Permanent Holdings, among others), who had invested in the renewable energy sector in Mexico. The country faces nine lawsuits from European investors before the International Centre for Settlement of Investment Disputes (ICSID). The government has argued that the changes introduced (which give the government greater power to control the Mexican energy market) were necessary during the pandemic and were intended to “maintain energy security and independence” and to guarantee “the supply of electricity”, especially essential services, such as the health system.

### ***3.3. Challenges in the implementation of the agreement***

As has been said, the modernised agreement is not limited to updating the trade pillar, but both sides are committed to cooperating on issues such as climate change, human rights, the fight against poverty or corruption. Joint cooperation to deepen these areas and achieve the common objectives will be one of the main challenges of the agreement.

Certainly, it is expected that there will be differences with the European and Mexican climate agenda. Already in 2020, the EU sent a letter to the Energy Secretariat to express its disagreement and concern about the future of renewable energy in Mexico. But it does not seem that politics will change in the coming years; this is a point to consider. As a direct example, the EU has already refused to ratify trade agreements that are not in line with its climate agenda, as has been the case with the agreement with Mercosur, following the position expressed in 2019 by French President Emmanuel Macron. For its part, Mexico faces a set of important challenges related to respect for human rights and, more specifically, to the indications of international organizations and organizations to resolve the migration crisis in the south of the country and on the care provided to migrants in transit.

The EU is one of the main promoters of sustainable development in the global context; meanwhile, the orientation of the current Mexican federal government’s energy policy is far from pursuing these ends. One issue that has attracted international attention is the electricity reform initiative in Mexico launched by the government of President Andrés Manuel López Obrador to dismantle the 2013 energy reform. The proposed change in the rules of the electricity market, which favours the power plants of the Federal Electricity Commission (CFE), increases regulatory uncertainty, limits free competition and hits both private investment in the energy sector and the use of renewable energies. This is a material change in the rules of the sector (which have so far attracted domestic and foreign investment) which creates significant solvency risks for private sector investments in electricity generation.

In this regard, two crucial moments can be noted in 2021: 1) on February 1, 2021, when the draft decree reforming and adding various provisions of the Electricity Industry Law for preferential processing (Federal Executive Power, 2021) was presented to the Congress of the Union, and 2) on September 30, 2021, the day on which the initiative to reform articles 25, 27 and 28 of the Mexican Constitution (Federal Executive Power, 2021b) was presented.

Several provisions of the proposed electricity reform may violate the Mexican Constitution (including the rights to a healthy environment, comprehensive and sustainable national development) and may be considered to be anti-competitive. The electricity reform also violates Mexico's rights to foreign investors. Faced with this panorama, the Mexican Institute for Competitiveness (IMCO) has stressed that the constitutional reform favours the CFE, limiting the participation of private industry in the Mexican electricity market and dismantling the regulatory institutional structure of the current electricity market. In addition, the reform reduces the country's competitiveness (by raising electricity costs for Mexican households and businesses), harms the environment and undermines the rule of law in a key sector for the national economy (IMCO, 2021: 1). It should be stressed that the reform proposes the elimination of the Energy Regulatory Commission (CRE) and the National Hydrocarbons Commission (CNH), so that their powers are transferred to the Ministry of Energy. The IMCO mentions that with this reform the CFE is strengthened, as it is granted 54% of the market share of electricity generation. "Strengthening the CFE involves recognizing that the company does not have the resources to be the only player in all links of the electricity value chain (generation, transmission, distribution and marketing)" (IMCO, 2021).

This initiative takes up elements of the reform of the Electricity Industry Law of March 2021, currently suspended due to litigation before the judiciary. Another of the implications that this reform has generated the most criticism is the elimination of the Clean Energy Certificates (CEL), without which the fulfilment of the commitments that Mexico has established in terms of energy transition within the framework of the Paris Agreement becomes unfeasible (IMCO, 2021).

This initiative has generated uncertainties among investors in the electricity sector. As a result, they are moving their projects to Central and South America, according to the International Chamber of Commerce Mexico (Usila, 2021). On the other hand, the EU ambassador to Mexico, Gautier Mignot, has assured that companies in the sector live days of uncertainty, since private investment has been paralyzed (Santos-Cid, 2021).

The reform initiative in the electricity industry transcends the international level. In this field, it is necessary to consider who are the largest investors in the sector in Mexico and who could be listed as competitors. In the interior of the country, the role of government institutions is to defend their reform proposal, where the State would take the reins of the electricity sector. The aim is to provide a better service to citizens, as the reforms of past governments have not generated great changes that benefit the population. The plan is to strengthen the CFE so that it becomes the central institution of this sector; that is the approach.

In this way, it is possible to propose two scenarios that have a direct impact on the international sphere, in the context of the US-China trade war. In the first scenario, if the reform of the electricity sector proposed by the Mexican government is approved, the role of the State in this sector will be strengthened, which will obtain 54% of the market share; the remaining 46% would remain in domestic and foreign investment.

It must be clear that the US is Mexico's main trading partner and that this reform represents a bifurcation between its economic interests and its geopolitical power. On the one hand, as a result of the possible approval of the reform proposal, there has been a climate among US investors that has led to capital flight and uncertainty regarding the investments that are maintained in Mexico. On the geopolitical side, the approval of the reform will represent, in some way, a barrier to the entry of international investment, but not only from investors in the US, but also from China, which is increasingly expanding, despite the fact that the modernized treaty between Mexico, the United States and Ca-

nada (T-MEC) has a specific clause that limits investments from countries that do not have an open market (art. 32 T-MEC). In other words, the Mexican electricity reform could, in this sense, suit the geopolitical interests of the United States, since it would diminish China's presence in Mexico, which is its immediate partner. Moreover, the approval of such a reform could trigger a huge wave of similar reforms in other current Latin American governments, which have turned left.

In the second scenario (in which the reform would not be approved in the terms proposed by the executive) the proposal of the previous six-year period, in which this sector was opened to foreign investment, would remain in force. On the investment side, investors' levels of certainty would grow under the rules they already know. But, in the context of the trade war between the US and China, the latter would consolidate its presence in this sector in Mexico and, consequently, in Latin America.

In either scenario, the EU (in line with the strengthening of its strategic autonomy) would have to ratify the agreement with Mexico so as not to remain an irrelevant player among the powers that play global power, the US and China.

#### **4. Partnership agreements and new models for post-pandemic development**

The COVID-19 crisis has had economic, social, political and geopolitical repercussions that have affected key aspects of the EU's foreign policy. This has caused the Union to have to redesign its trade policy in support of its geopolitical interests in order to deal with the US and China. Brussels has set out to be more "assertive", taking new measures to respond with reprisals to "coercive actions". Thus: "Trade policy must play its part in recovering from the COVID-19 pandemic and in the ecological and digital transformation of the economy, as well as in building a more resilient Europe in the world" (European Commission, 2021).

The EU's external trade policy must take into account global challenges and trends in order to show the political ambition of "a stronger Europe in the world". These challenges are due to the fourth industrial revolution, climate change and its social effects. In order to make the EU stronger and more resilient, it is necessary to "combine internal and external action in multiple areas of action, harmonising and using all trade instruments in support of the interests and objectives of the Union, taking advantage of its strengths and its relations with its partners" (European Commission, 2021: 5). To do this, it must work on its strategic autonomy.

Trade policy therefore focuses on three key objectives: (a) supporting the recovery and radical transformation of the EU economy in line with its objectives; (b) shaping global standards for more sustainable and fair globalisation; and (c) increasing the EU's capacity to defend its interests and enforce its rights, including autonomously where necessary (European Commission, 2021: 10-11).

The European Commission will thus strive to reap the benefits of the Union's network of bilateral trade agreements, which "facilitates trade in green technologies, goods, services and investments, together with the firm fulfilment of its commitments on market access and sustainable development". The new strategy seeks to appease the moods of a number of EU partners, including growing misgivings about trade agreements. These reservations no longer come only from France or Belgium, but also from Austria or the Netherlands, the natural successor of the United Kingdom in carrying the flag of free trade.

A first step towards optimising the EU's strategic autonomy is, in any case, to make the most of its trade policy and the trade, partnership and cooperation agreements it maintains in the world, which it is cu-

currently modernising or signing for the first time. This is based on the premise that the EU can lead a commercial transformation and a regulatory order based on democratic values, the defence of human rights, the care of the environment, the commitment to the 2030 Agenda, and the construction and maintenance of a functional multilateralism.

The EU has extensive experience in generating processes geared towards the creation of a regulatory and institutional order. The Union itself is the product of a system in which law has been the *de facto* instrument of its construction: “No one imposes itself, much dialogue is required, continuous transaction, taking into account others, many States, many institutions” (Mangas-Martín, 2018).

In this sense, the EU’s latest trade agreements are created under the following premises: export a regulatory model that incorporates the basic principles of free trade; boost the digital transition (in order to eliminate technological gaps) and include social and environmental standards that the parties must comply with to maintain these agreements. The aim is to ensure that the benefits are mutual and that, in addition, the agreements contribute to the implementation of international agendas aimed at sustainable development. As reference examples, the European Green Deal and the European Digital Strategy present new, more sustainable models of growth. It should not be forgotten that the Green Pact is a roadmap in line with the SDGs of the UN 2030 Agenda.

The EU’s trade agreements represent a mechanism for enhanced cooperation to achieve its geopolitical ambitions. In addition to strengthening its relations with other countries, these agreements create alliances that lay a firm foundation for building a trade- and rule-based order. To this end, the European Commission has set out to focus on six areas: “1) WTO reform; 2) support for the ecological transition and promotion of responsible and sustainable value chains; 3) support for the digital transition and trade in services; 4) strengthening the regulatory impact of the EU; 5) strengthening EU partnerships with neighbouring, candidate and African countries; and 6) strengthening the EU’s focus on the implementation and enforcement of trade agreements, and ensuring a level playing field” (European Commission, 2021: 12).

Moreover, this EU strategy is in line with the measures currently known and aimed at strengthening the implementation and enforcement of trade agreements. It stresses the importance of existing mechanisms, such as the appointment of a trade compliance director, the establishment of a “one-stop-shop” tool and the use of the Aid for Trade Plan to support best practices and the proper implementation of agreements in developing economies. At worst, the introduction of sustainability commitments without effective mechanisms or processes to hold business partners accountable only overloads agreements with inapplicable content (Blot and Kettunen, 2021).

Undoubtedly, the timely involvement of stakeholders (when they provide up-to-date knowledge of their critical environmental problems) reinforces the environmental, technological and sustainability dimensions of trade agreements. Analytical rigour and improved data quality make it possible to better understand the impact of agreements in the areas identified, with *ex-post* evaluations that help stakeholders monitor their effects and hold their government accountable.

In addition, the new EU Multiannual Financial Framework (MFF) 2021-2027 should be taken into account, in which, following its review, the European Commission has simplified the instruments dedicated to external action. Thus, the new Neighbourhood, Development and Cooperation Instrument (IVDCI-Global Europe) merges most of the geographical and thematic instruments of the previous MFF. Global Europe has an innovative and simplified financial structure for investment outside the EU. It is based on the European Fund for Sustainable Development Plus (EFSD+), and supported by

the new External Action Guarantee (EAG), which has the potential to mobilise technical and financial resources amounting to €68 billion. In this new programming, it should be noted that the principle of policy first is an “emerging concept in EU external action, which currently only has practical experiences of the EU’s regional technical cooperation programmes with Latin America and the Caribbean” (Jung Altrogge, 2021: 8). Undoubtedly, this concept and its practice will be of vital importance for cooperation between the two regions, in the face of a new MFF in which the Latin American region is not presented as a priority.

Despite this, the Commission’s regional Multiannual Indicative Programme (MIP) for Latin America and the Caribbean (2021-2027) states that the implementation of the EU’s trade and association agreements with the region should be promoted as a mutually beneficial instrument for economic recovery. The modernised GA between the EU and Mexico is thus a relevant tool for deepening relations between the two sides and will provide strategically priority cooperation opportunities for the EU, including: (a) promoting an ecological recovery, (b) social cohesion and combating inequalities, and (c) democratic governance, including human rights, security, justice and migration (MIP, 2021-2027: 44-45). These are the areas with added value, as they can become a driver of significant change for the achievement of the SDGs, while promoting the EU’s global principles. All this with the participation of actors such as civil society, academia, experts, the private sector and relevant regional bodies (IPM, 2021-2027: 44).

In the case of the modernization of the AG, key points are incorporated that can contribute to the strategic autonomy of both parties, in particular, institutionalized participation, organized civil society (with a binding legal basis) and the Joint Parliamentary Committee of the Senate of the Republic. These two parties have played a central role in the Mexico-EU dialogue. The incorporation of players into the modernized GA provides a platform for action that opens a window of opportunity for the enforceability of the social clauses of the agreement, and for its permanent review and evaluation.

Through the Regional PIP for Latin America and the Caribbean, the EU will support a range of continental/multi-country Team Europe (TEI) initiatives. The TEIs address priority and strategic issues on which the EU could have a transformative impact, becoming the reference partner, together with the Member States of the Union, the European Investment Bank (EIB) and the European financial institutions. The initial proposal for the region is as follows: the Green Pact with an ecological transition TEI and a TEI for the Amazon basin, a TEI for an EU-Latin America and Caribbean Digital Alliance, a TEI for Justice and Security, and a TEI for inclusive and egalitarian societies (NDICI-Global Europe Programming, 2021: 9).

However, trade and new policies that have to do with the European Green Deal and sustainability will not be without problems between the dominant industry and the change they represent (Benjamin, 2021). The “greening of trade” must open the door to new and strong laws, and institutions that support this change, in line with international agreements, such as the Paris Agreement and free trade agreements, all in an environment of transparency and equity (Deere Birkbeck, 2021).

The EU is committed to working with like-minded partners to promote investments in connectivity and sustainability, mobilising €300 billion (\$340 billion) in public and private infrastructure investment (planned for 2021-2027). Global Gateway projects will be developed and delivered through TEIs. The EU institutions and Member States, together with their financial and development institutions, including the EIB and the European Bank for Reconstruction and Development (EBRD), will work with European companies, as well as with governments, civil society and the private sector in partner countries (European Commission, 2021). In addition, the ERDF+ (2021-2027) will make 135 billion

euros available for guaranteed investments in infrastructure projects and 18 billion euros in grants. Funding from the European budget and financial and development institutions amounts to 145 billion euros (European Commission, 2021).

In Mexico, the EU (together with its Member States and the EIB) will contribute with more than €20 million to the Global Gateway initiative for the green transition in four areas: the circular economy (waste management, agriculture, water management); the energy transition (energy efficiency and renewable energies); sustainable mobility and, finally, ecosystem-based solutions (conservation of oceans, biodiversity and forests) (EU Delegation in Mexico, 2021). These are examples of what is called Team Europe initiatives, where we work with partner countries to support a green and digital transition.

Since the beginning of Von der Leyen's mandate, parallel transitions (climatic and digital) have been present in his Geopolitical Commission. With the new Global Gateway strategy, the EU promotes these transitions on a global scale. Global Gateway is presented as an alternative to the enormous potential of the Chinese Belt and Road program. The Global Gateway programme can also be seen as a response to the challenges presented in the context of the geopolitical conflict between the US and China.

The EU is defining strategic, flexible and variable partnership and alliance agreements with various countries in order to maintain the influence of its regulatory power and not to be left out of the current geopolitical dispute. Along these lines, their work of cooperation with Latin America through large regional programmes is relevant, not only because they have an impact on a single country, but also because they are initiatives that have been approved *en bloc*, at the level of CELAC and the EU. From the bi-regional negotiation between these organisations it is possible to glimpse part of the response that the EU projects towards the world.

On the other hand, in the framework of its cooperation with the region, the EU has opened the projection of its green agenda and its blue agenda, in which it has introduced its new programming for the next decade, promoting sustainable development, innovation, digital transformation, the development of technologies, the green and circular economy, together with green jobs. In this way, although the EU may not reverse China's investment balance in the region, the presence and monitoring of its green and blue agendas in Latin America will have a qualitative weight.

The Digital Partnership between the EU and Latin America and the Caribbean is one of the most relevant points on the Blue Agenda, and is specifically reflected in the deployment of the transatlantic fibre optic cable (EllaLink) between the two regions. This cable will soon be extended to several Latin American countries, through the BELLA program, and is expected to boost digitization processes, business, trade, education, and data-driven scientific research between the two regions. This project is a good example of how the EU can use its budget to support bi-regional public-private cooperation in this key area.

In turn, international digital partnerships will provide the opportunity to articulate research actions with the private sector, and can get the EU to lead 6G projects, using digital technology to address climate change and environmental challenges. In Europe, the Centre for Digitisation for Development (CentroD4D) will promote people-centred international digital partnerships, building on the Team Europe initiatives to achieve coordinated impact (European Commission, 2021: 12).

It should be noted that, for its part, Mexico participated in an initiative for adaptation and resilience to climate change in the Caribbean (Mexico-Caribbean Community-FAO), in addition to an initiative to strengthen food security (Mesoamérica Sin Hambre), and in the implementation of a platform to strengthen the tourism sector, through virtual training with the countries of the Pacific Alliance. On the other

hand, through the EUROsocial+ cooperation program, employment has been promoted in vulnerable populations and policies aimed at protecting migrant children and adolescents have been supported within the framework of the Binational Border Strategy Guatemala-Mexico, which aims to territorially plan the actions of both countries to promote their lagging development (EU Delegation in Mexico, 2021: 2).

#### **4.1. Strategic autonomy through trade**

The pandemic can represent a key moment in the reconfiguration of the world order. The health crisis, and the subsequent economic and social crisis, have led to questions about the role of central governments and international, regional and interregional organizations in addressing problems effectively. Alongside this, we must bear in mind that today's world is too complex to think that there is a single hegemonic order.

This being the case, it is particularly important to note the role that China can play on the international scene. This country has gone from having a moderate and discreet strategic diplomacy to a more proactive and assertive one, which involves the construction of authoritarian narratives to reorganize the global order, as an alternative to the liberal vision (Chang, 2021: 27-28). Faced with the emergence of new threats and challenges, which make it necessary to intensify and boost international cooperation, the EU is willing to “repair the economic and social damage caused by the pandemic and prepare the future for the next generation” (European Commission, 2020). In this way, it has proposed the development of its strategic autonomy inside and out, as part of an “interdependent management framework, of shared responsibility and with an associative spirit” (Molina-García and Benedicto-Solsona, 2020: 69).

This strategic autonomy implies acting and cooperating with international and regional partners, as well as an autonomous capacity for action in any of its competencies (Molina-García and Benedicto-Solsona, 2020). “For the EU, this requires more coherent action, combining objectives and means in different areas of action, assuming that issues of trade, environment and sustainable development are also foreign policy issues, in a more repoliticised and integrated logic” (Sanahuja, 2021).

Following the multilateral crisis and the protectionist measures maintained by the previous US government, the EU has faced the challenge of leading a new rule-based order, based on trade. This is important because, ultimately, a global trading system with competing blocs leaves the WTO weakened and prone to conflict; this could amplify the growing protectionist sentiments and zero-sum visions of trade relations rooted in the logic of relative gains. Given the leadership vacuum in the field of world trade, the EU must intensify its regulatory approach and build alliances with other like-minded actors (especially with middle powers), if it is to maintain a rule-based liberal order, on which its power and prosperity depend (Postnikov, 2020).

In this sense, the European Commission headed by Ursula von der Leyen has taken on a geopolitical and geostrategic character. The EU remains active in its extensive global convening capacity, being at the heart of a global network of alliances and being one of the pillars of the multilateral system. Thus, the Commission advocates a profound reform in the WTO, involving a dispute settlement system, while continuing to strengthen its trade agreements in order to defend its interests, in strict adherence to international law (European Commission, 2020: 8-9).

The coherence of a trade policy that emphasises its multilateralist vision, the provision of global public goods and sustainable development will be a challenge that the EU will have to face if it is to become a regulatory power. According to Mangas-Martín, “the EU is ‘the’ export power of regulations in this global era. It is a normative power, or global regulator, whose rules, with undoubted extraterritorial effects, contribute to the governance of global society” (Mangas-Martín, 2018: 86).

The normative dimension focuses its attention on foreign policy, since, through it, the EU exports to the world the values that gave rise to it: democracy, human rights, peace and multilateralism. It does so, in particular, through its international trade agreements. Through its trade policy, the EU has become an “ambitious exporter of rules that it promotes, precisely through its free trade agreements and/or within international organisations”, mainly in multilateral fora. “Such promotion is a reflection of its unique nature and identity, since they are the same rules that regulate the endogenous dimension of the European project” (art. 2 and art. 3.1 to 3.4 TEU). These norms, in turn, “define and articulate their exogenous dimension” (art. 3.5 and art. 21 TEU; Rodríguez-Prieto, 2019: 78). This singular and normative nature is precisely what makes the EU a true “changer of norms”; this is its differential feature compared to other actors on the international scene.

The EU’s regulatory export capacity is based on universal principles, insofar as they are reflected in international institutions and are recognised within the framework of the United Nations. These fundamental principles transcend their purely European nature, being cosmopolitan, which in turn reinforces their export possibilities. The regulatory impulse is what, in short, can change the status quo of the international scene (typical of the traditional Westphalian system), moving towards a scenario different from that of globalization, which is based on a neoliberal ideology that impacts on increasing inequalities (Rodríguez-Prieto, 2019: 78). In this sense, the EU has been characterised by promoting, through its external instruments and policies, regulations that are framed in a “logic of the appropriate”, bringing the principles of democracy, human rights and protection/promotion/generation of global public goods to the whole world.

Strategic autonomy is based on the EU’s transformative power on the international stage, and is characterised by the export of standards, which take hold in the very process of integrating the European project. If we stick to the classic definition of the ability of a political unit to protect its interests, have its own vision of the international context and influence other entities to solve problems and situations that interest it, the EU is a power. In fact, it represents a way of contributing to the governance of globalization. With its strengths and weaknesses, the EU has already assumed its own original role in international society: a stabilising function and a model of peace and well-being, guiding numerous peoples and states (Mangas-Martín, 2018: 86).

The EU can lead a new system that wields rules-based trade as a banner. Accordingly, it can refine free trade agreements with special chapters on sustainable development, with social and labour clauses, and with all kinds of mechanisms aimed at improving economic asymmetries. But, however well these inclusions are received in the agreements, if the parties do not implement and enforce them effectively, they will be in vain. “Unfortunately, this is the area where the EU trade policy regime has failed the most” (Blot and Kettunen, 2021).

However, the “Brussels effect” is latent and undeniable and, as indicated, the EU’s global regulatory influence is sustained through different channels: trade agreements, central participation in international institutions, transnational networks and, of course, adoption of EU regulations, by countries and organisations, under other modalities: either by participating in legislative loans, replicating EU institutions, citing legal concepts and principles developed by European courts or participating in “imitative” litigation in cases in which the EU has acted first (Bradford, 2020: 67).

In this respect, can the association agreements contribute to the strategic autonomy of both regions and to the strengthening of multilateralism? The EU, as stated above, is a true “rules-exporting” entity which, through its external action, has projected its values to the world. Then, in combination with the strategic autonomy approach, it will be able to strengthen its structures both outwardly and inwardly, using trade as a key pillar.

For its part, Mexico shares these values and, after the 20 years of political dialogue established by the AG, maintains common positions with the EU. With regard to calls for attention to its specific cases of human rights violations, the country has responded to and undertaken cooperative initiatives to improve its rule of law. On the trade side, and after the tough negotiations, Mexico faces its commercial diversification before the European market, after the update of its free trade agreement with the United States and Canada (NAFTA, now T-MEC), its main markets and commercial partners.

## 5. Conclusions

In order to strengthen its geopolitical role and reaffirm its international power to achieve “more responsible and fairer globalisation”, as well as to contribute to the global green, technological and sustainable development transition, the EU is pushing for a new rules-based trading system. It is also working on greater cooperation with its trading partners, through its extensive network of association and free trade agreements, a key point for advancing its strategic autonomy.

In its relationship with Mexico, the modernization of the GA was based on three pillars (trade, cooperation and political agreement) which have been strengthened over 20 years. In relation to political dialogue, although both civil society and the Joint Parliamentary Committee of the Senate of the Republic of Mexico did not have a binding legal framework, they have been two of the actors that have provided the most activity to the dialogue. These actors have created and institutionalized participation mechanisms, which have been provided with binding clauses in the modernized AG.

For their part, the EU institutions participating in the dialogue have taken a firm stand against human rights violations committed both in Mexico and abroad. Given this, Mexico has taken up the recommendations to work on issues of internal institutional strengthening, security, justice, human rights or gender-based violence, among others. In this way, the cooperation pillar has also been oriented to address crucial issues discussed in the political dialogues, hence some of the programs in implementation are related to these issues.

Commercially, the new agreement between the EU and Mexico comes in a different context from 20 years ago, due to the financial crisis, China’s power in the trade field, doubts about US leadership and technological revolution. For this reason, the agreement states that “it will strengthen the leadership of the EU in shaping globalisation by establishing trade rules that are in line with the fundamental values of the EU and protect the interests and sensitivities of the EU”. As mentioned above, the EU wants trade agreements to reinforce the regulatory dimension in the field of international trade.

Moreover, the intensification of economic and investment relations has been a constant between Mexico and the EU. Its trade has grown four times since the start of the GA and Mexico is currently the EU’s second largest trading partner in Latin America and the Caribbean, behind Brazil. For Mexico, the EU represents a commercial actor with which it can diversify its economy, and not focus only on its main market. Finally, the modernization of the GA represents a basis for advancing the strategic autonomy of both regions, strengthening multilateralism and articulating an international regulatory structure that has trade as its main element.

The modernised GA belongs to a range of state-of-the-art EU agreements incorporating specific social clauses (on human rights, labour rights and the environment. In order to ratify the modernised AG, the agendas of both sides must coincide on crucial points (such as the ecological transition that the EU advocates with the Green Deal) and incorporate regulations into their economic partnership agree-

ments. In this sense, it is important to highlight the political will of the governments in office in countries that, like Mexico, have negotiated the updating of their agreements with the EU by undertaking a redefinition of agencies and structures aimed at achieving common positions on crucial issues in the multilateral arena. The key will lie in the scope of trade openness to ensure this sustained growth.

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